

THE
READERS
SPEECH
OF THE
Middle-Temple.

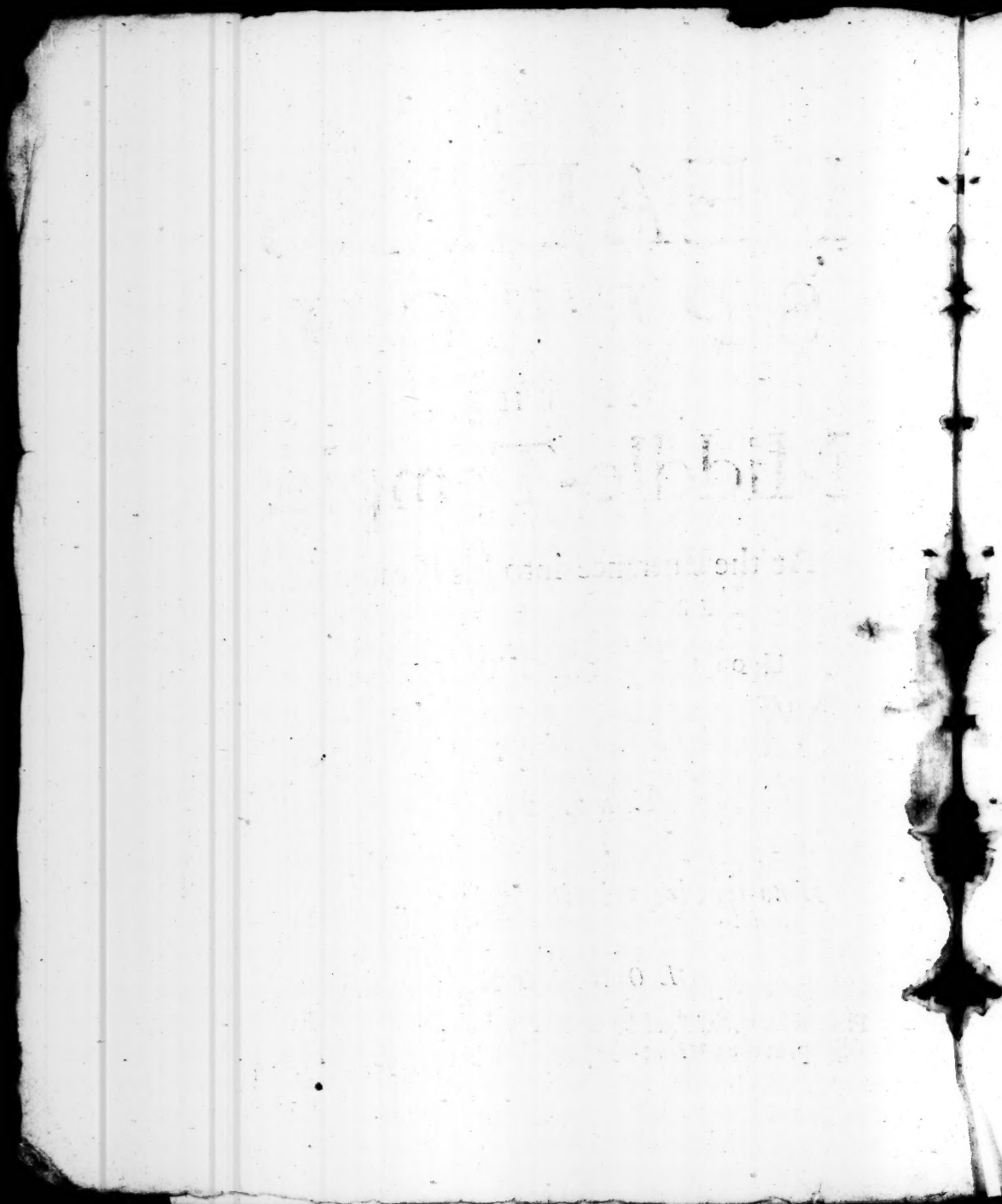
At the Entrance into his Reading,
FEBR. 29. 1666 $\frac{3}{4}$.

Upon the STATUTE of
Magna Charta,
CAP. 29.

Bono servire principi optima libertas.

L O N D O N,

Printed for G. Bedell, and T. Collins, and are to be sold at their
Shop, at the Middle-Temple-Gate in Fleetstreet. 1664.





THE
READERS SPEECH
OF THE
Middle-Temple.

May it please your Masterhips and Gentlemen,



Enable I am of my much unfitness for this Exercise.

Arguments I have us'd, many, to their Masterhips, that they would please to secure their own, and your honour, by a more pregnant choice.

What prevailed not with their wisdoms to excuse, may it with your Candors to interpret mildly.

First, My Memory is in disorder for want of use at the Bar, whence I was excluded Fourteen Years.

Next, My Limbs are disjointed by the Gowt, a distemper I contracted by the laziness of a long and close imprisonment.

My Estate has been impaired by Sequestration, Decimation, and those other sufferings which deeplest oppress Members, who withdrew to OXFORD.

Scandal'd also I have been, and so was Jesus Christ, and so are many more, both Great and Good, (because they are so) I have hopes as they to conquer it by Contempt; If not, by Moderation; yet that's my Crime.

As for my Ambition to be Great, I assure you 'tis no less than my desert and hopes, and that's None at all.

These Considerations, as they discouraged, so they inclined me now in Age, when the Clouds return after the Rain, and the strong men bowe, to a retired life.

A 2

BUT

New Rec. 9 Oct 42

BUT were it that *Fate* which has hitherto doom'd me to a *suffering* condition, or a mistake in their Masterships of some *abilities* in me, which I know nor, to the work I must, and which is worse, by anothers sayler, a *full year* before my course.

Next to *Obedience*, That which dispos'd me most, was a due sense of the *Debt* which we all in course owe to the *Society*.

A Society at this day observed to be highly *Civil*, *Generous* and *Gentile*, *Nobilium Filii*; of which extraction, says *Fortescue* and *Fern*, persons ought to be, that have the honour to be *here* admitted; A *lower* breed being not proportionate to the *ayre* and *ingenuity* of this profession.

A Society so prosperous upon account of *Learning*, that a messe of our chief Masters are worthily advanc't for it to offices of honour, and we have in view a *flourishing* recruit to improve the splendour of this Exercise, and with it the Government.

And so hopeful in the fair *branches* growing up, that I have confidence to aver, you will no way derogate from the *Glory* of your Predecessors, whose *Arms* and *Trophies* you cannot but behold, if you look up to *Heaven*.

A debt so honourable, so just, though I engaged to others, I resolv'd to pay, though perhaps not in *weight*, yet in *number*: And what is *light*, I have hopes may be supplied by that *weighty* indulgence of their Masterships, favourably to interpret my endeavours with respect to my *sufferings*, and *surprize*.

And that Gentlemen, from *you*, and persons of your deep Reason, I demand, as a due to *Justice*, and I shall return you an acknowledgment as a due to *Civility*.

Where Excuses, you'l say, are so *near*, Errors usually are not *far*, nor indeed are mine.

Troth 'tis, I had advanc't a Statute more *useful* in order to conveyancing, but time straitning me, I found it too *laborious*.

Whereupon upon this *Law* I fix't, having somewhat ponder'd it in the late Troubles that disputed it, which soon wiping off the *gloss* and *varnish* of pretences, made it demonstrative. That it is not only *Duty*, but *Interest* to build high upon the *old* foundation.

You

You have here a Statute, which proclaims *Liberty* to the English Subject; a liberty as far transcending that Impolture of a *Free State*, as the glory of the *Sun*, the Prodigy of a *Comet*.

That *Comet* which our great *Statesman* prudently observed, to have influenc'd mens spirits into the late Confusions.

Confusion unavoidably incident to that Modell, without *Wars* or *Garrisons*; Wars to *keep up* the great ones from falling down; *Garrisons* to *keep down* the lesser from rising up.

Where no King is, there can be no Honour, no Degrees; and where *all* are equal, *every* man thinks himself as fit to rule as *any*; and will put for all.

Therefore subsists it only, where there is a *Head-City*, to give name to it, to awe and tax the adjacent Country, as of old, *Rome*, *Carthage*, *Athens*; with us, *Venice*, *Geneva*, *Ragusa*, nay and the *Swisse*, and fatal *Netherlands*, who are united and secured by a *confederacy* of *Garrisons*, and those chiefly manag'd by *no Gentry*.

Hence is it, that *England* is inconsistent with that fiction, as well regard of situation, being a large continent, not to be denominated or awable by *one City*, as of the brave and sprightly temper of the *Gentry*; not to be inflav'd by *Mechanicks*.

Peruse our *Chronicles*, and there shall we read, that the English are *Geni inclita belli, audax & impatiens frangi*; but in their highest tumults, not in the least dispos'd to alter *Kingship*; not then, when they bandied *Crowns*, as we do Tennis balls into *Crosse Hazard*; no, nor when the *Smith Flammock*; *Wat the Tyler*, or *Jack Straw* revell'd it with their *Clowns*.

Did you not mark? when our late Riders, like Sots in *Drink*, reel'd from this to that, the unpliant *Genius* of the Nation (which will carry things in the long *Run*) enforc'd their giddy *Heads* to a *stand*, even *where we stood at first*; even there, where now we *stand*; And some that dar'd not stand it, to *stand higher*.

Don't you believe, that it was the *courage* of this Party, the *contrivance* of that, or the *compliance* of a third! no, it was the general *Spirit*, and *Genius* of the Nation, that brought home the *King*, and it had an influence dextrous, and powerful, and yet invisible.

Was it not strange! While the factions quarrell'd among themselves who shall have the *Rule*, the *King* must be call'd in to save them against themselves, and to take the *Rule*.

He that was their *fear*, must become their *Refuge*; Peace with the King, brings peace among themselves; yea, and with *all* the world, and Parliaments, as at the first.

PACATUM.

Pacatumque regit patriis virtutibus orbem;
Prob. Dii! Not one drop of blood runs out in the whole transacti-
 on, but only in the *clear stream* of Justice, and that administred in
 such a *flood* of mercy, as design'd rather to vindicate and *purge* Reli-
 gion from that *putrid stain* of *King-killing*, than to inflict vengeance
 on the Workers of Iniquity.

If then his Enemies have cause, much more have his Friends
 to cry

GOD SAVE THE KING.

I stir not this to reflect, for I abhor it; but to evidence, not only
 their *disloyalty* and *lewd* conscience, but their *folly*, that conspire a
 Change, capable of no other issue but their own *destruction*.

And that not only in their *estates* and *persons*, but even in that *li-*
berly which they so much labour.

For were it a *scelus prosperum* instead of Liberty, which from this
Statute for four Centuries under *Kingship* we have prosperously en-
 joy'd, nay improv'd; they advance only the lusts of some few, that
 get next in the Saddle, who were heretofore not *un-ominously* in-
 flid'd *Custodes libertatis*; for they took so much *liberty* to them-
 selves, that they left *none* to other.

Liberty *sage* men cover, as well as *factious*; not that liberty for
 every man to do that *which is right in his own eyes*, as it was when
 there was *no King in Israel*, for that liberty, as it occasioned the *Levite*
 to quarter out his *Concubine*, & scatter it among the Tribes, to take re-
 venge, so makes it every man a *slave* to him that has the *longest sword*.

True liberty is that, where the *Rules of Law* square out a man his
right; where the Law *spurs* on the good, and *reins* in the evil;
 where a mans *House* is his *Castle*, because the Law is his *Guard*, and
 so is it of his *Goods*, neither to be assail'd without his own consent, in
person, or by *proxy*.

Of liberty in this sense, (whereof the just and honest, as *Cato* says,
 are only capable) my Statute *exalts* to the English a proportion more
triumphant, than the freest State; yea, then that goodly one,
 which was begot out of the *mud*, and brought forth the *freedom* of
Excise; where *free* indeed they are, but it is in *purse*, who excise their
 very *Pot-herbs* before they eat them.

Our liberty is *built* so *high*, that it cannot stand *firm* unless
 it be prop't up by Lords *Spiritual*, Lords *Temporal*, and
Commons;

Commons; Consulere, and consentire, and a Sovereign, with a L. roy le veut to enforce; If those supporters fail, Suis & ipsa viribus ruit, this rich Fabrick sinks with its own weight: For it so harmoniously intermixes the rights of Sovereignty with the liberty of the Subject, that the one ballances the other, nay, the least jarr in the one, makes a loud discord in the other.

Lex facit ut ipse sit Rex, says Bracton well, and 'tis said as well, Imperii maiestas est tutela salus. The support of power and awe in Majesty, secures peace and safety to the people.

The unsteddy vulgar are not to be entrusted with their own security, without a check; 'Tis for their advantage to be rid with a *strait* bridle, so that bridle be the *Law*; If the *reins* of Sovereignty and the Law be let loose, like head-strong *Colts*, they'll run cross-ways till they bogg themselves, or fall; or if they get free, the next that comes *impounds* or *backs* them.

If the *Logick* of this were discreetly prest, it might stead the King of England in this *knowing* Age, perhaps nolesse, than the *Divinity* we hear of the rights of the Kings of Israel.

I have a home prooffe, but it is a sad one, when our late good King in his pious hopes of a closure, let go his radical and inherent power to dissolve the Parliament; thereby unwarily advancing two powers co-ordinate, as two Gods in Heaven, whose crosse wills must needs enflame the Earth.

Which breach in that *weighty* fundamental, let loose the Government, and let in a *deluge* of misery upon us his Subjects, as well as upon His Crown.

Without which *Sarcasm* in policy, our Laws are so *regular*, that a Civil War could not *swell* up to that length, or height, nor could this Statute, and with it, Liberty be so *ore-flown*, as it was, (we know the time) when the enforcing it by some learned ones that now sit high on the Bench, enforc'd them to lie low in the Tower.

But now that we have a Sovereign, who knows and builds his Government upon his and our true interest, the *Law*, and which he has pleas'd so far to honour, as to give this Exercise His Royal presence, I am emboldned to awaken this Statute, which has so long slept, and therein to evidence his Majesties indulgence, and our happiness, by way of explanation.

In order whereunto, give me leave a little to ramble into History, and perhaps the length of the Journey will be recompenc'd by the goodnesse of the way,

Some

Some reach the Pedigree of this Statute from the old *Britans*, others from a mixture with the *Saxons*; I take the Original like that of *Nilus*, dark and uncertain, or rather as a flowing in of several streams into one grand *Channel*.

The *Heptarchie* being reduced under one Government, by that stout Prince *Edbert*, the *West Saxon* (be it recorded to the glory of our *West*) and our *St. King Edward* in time succeeding to the whole, He, with the Advice of his wife *Men*, caused one Volume, *Ex immensa legum congerie*, as *Hoveden* has it, out of all their Laws to be compil'd, *Optima quaque elegit*, sayes *Gemitencis*, which seem'd most equal and indifferent, *Quos vocari voluit communem legem*; And those he injoin'd to be observed through the whole as his own Law.

King Edward dying chaste, though married, and *Edgar* his Heir an Out-law, *William* of *Normandy* makes Title to the Crown, as Cousin to the Confessor, and disposed by his will, and that appointment ratified by the Oath of the Nobility.

And to keep fair with the Clergy, he proffers to refer his Right to the Arbitration of the Pope, whose Decrees in those dayes were Oracles.

Harold slights the Arbitration; and so at *Rome* from the Pope, he obtains a sentence for his Title as more pregnant than that of *Harold*, who, *Sine Ecclesiastica Autoritate*, sayes *Hoveden*, and against his Oath given to Duke *William*, had usurp't the Crown.

This dispute determines at one Battel, but it was a bloody one, there being a carnage of Sixty thousand men, as the Monks report it; And the Duke, *Potentiam ex vulgi adulatione querens*, *simulque magnifica pollicitus*, disclaims Conquest, and taking his Oath to continue the good Laws of his Cousin the Confessor, with free applause, *Rex declaratur*, is accepted King; as Mr. *Selden* notes upon *Edmerus*.

And that the people might the better observe their duty, and the King his Oath, he caused Twelve of the most discreet men in every Shire to be sworn, that without swerving either *ad dextram*, or *sinistram*; that is, *nec Prerogativa blandientes*, *nec Privilegia dilatantes*, they should lay open *sanctitatem*, the integrity of their Laws; nothing adding, nothing concealing; *Nil prevaricando mittentes*; so writes *Hoveden*.

And *Aldred* the Arch-bishop that Crowned him, and the Bishop of *London*, by the Kings Command, wrote that which the *Jurats* had

had delivered, and these, as sayes *Ingulphus* his Secretary, made Abbot of *Crowland*, He proclaims to be Authentick, and for ever to be *inviolabiliter* observed.

The Sum of this he compos'd, as Sir *Edw. Cook* conjectures in the Preface to his 8th. Repetit. into some form of a *Charter*, closing it with this General, That all men duly keep the Laws of *Good King Edward*.

Some Laws indeed of his own headed for the advantage of his *Normans*, which, sayes *Gervase* of *Tilbury*, were *Efficacissime ad pacem regni faciendam*; though others say, They were somewhat too severe upon the Natives, the better to make room for a new Plantation.

Dangelt an exaction not clear'd from the Crown he Releases;

The Jurisdiction *Ecclesiastical* and *Civil*, this King also sever'd; for before his Reign, the *Bishop* and the Earle, or their Deputies, sate jointly in the *Counties*, determining *spiritual* Causes in the Forenoon, and *secular* in the Afternoon, according to the pattern of the Jewish *Sanhedrim*, which was imitated by the Christians in times *primitive*; The Apostles and Elders which were no other than Lay-Magistrates, deciding all controversies among Christians, who *voluntary* submitted to their judgment; for this see the *Glossary*, 315. *Lambert*, 80. and Mr. *Selden* on *Edmerus*, 166. and History of *Tytus*, chap. 14.

'Tis only to be wish'd, that he had distinguish'd their Causes, as he divided their Courts; for that omission has occasion'd those jarrings of Jurisdiction which have since hapned between the Ecclesiastical Courts, and the Courts at Common Law.

But more violent was this Conflict, till by a Canon of the Council of *Clarendon*, it was decreed, That *Regis justiciarius mittet in curiam sancta Ecclesia ad videndum quo modo res ibi tractatur*; The ground of Prohibitions; *Mat. Paris. An. 1164.*

This the Clergy endeavour'd to qualifie by *Petition* in Parliament, 5. r. *Ed. 3. nu. 83.* But thereto the King answered, that he could not depart with his right. 4. *Inst. 339.*

King *William* in this Act design'd a more regular dispatch of Causes; and indeed as *Pictaviensis* sayes, he was a Prince of Courage, *Spētaculum delectabile, simul & terribile*: He was, sayes *Matthew Paris*, *Subjectis humilis*, but *Rebellibus inexorabilis*, and deserves a memory in our Chronicles more illustrious; for though his *Normans* at his new establishment importun'd him to connive at some

oppressions, yet the Law held out *in title*; And then, may we interpret the *mistakes* of a Prince, to be his *necessity*, or at least but as a *step* out of the way to avoid the *Dirt*; manifesting that he is but *Man*, and not more privileged from *Infirmity*, than his Subjects.

Little of good fame (a revenge which bad Princes after their deaths cannot provide against) in *Rufus* his Son have we upon *Record*; for then sayes *Paris*, were their *Mala consuetudines & exactiones injustæ*; And this appears by that great Charter of his succeeding Brother King *Henry the First*, who, sayes *Hoveden*, those evil customs *penitus abrogavit*, and restor'd to oppress'd *England*, the Laws of good King *Edward*; with those emendations which his Father had added by the Counsel of his *Barons*; so *Florentius*, and *Malsbury*. King *Stephen* by his Charter confirms the good Laws which King *Henry* his Uncle had before granted, with those of good King *Edward*, and enjoins, sayes *Roger Bacon* in his Book *De impedimentis scientiæ*, That none of the Laws of *Italy*, the Imperial Laws should be retain'd; *Henry the Second* ratifies the same Charter; He grants what his Grandfather King *Henry* had granted, and remits what he had remitted.

King *John* disputes it with his Nobles, but was prevail'd with in the Seventeenth year of his Reign, to contract those former general Charters into one *Grand* one, and this sayes the Monck of *St. Albons*, *Ex parte maxima, leges antiquas & regni consuetudines continebat*, *Paris* 246.

But King *John* being (as the Moncks report him) of an unsteady spirit, recalls his Charter, when the *Normans* being ingrafted into the English Nobility, and inheritable as they thought to the English freedom, contest it with their Prince, and pray in aid of *Lewis* the French Kings Son; by whose powers King *John* being worsted, he dyes, being poysoned, as is supposed, in a Chalice. He left his Heir of the Age of Eleven years, whose *innocence* had contracted no *malice*, and in whom concenter'd not only the title of the *Norman*, but also of the Royal *Saxon* blood; for he was Grandson to *Maud* the Empress, Daughter and Heir of *Henry the First*, by *Maud* the Daughter of *Malcolm* King of Scots, and *Margaret* his Wife, Sister and Heir of *Edgar Atheling*, true Heir to the Confessor.

The English, who naturally abhor wrong, and without a strong *tye*, are just and loyal, forthwith desert the Forreigner, and adhere.

here to the Royal Issue; The French Prince affrighted at the *fer-
vour* of that generous spirit, submits to terms, and departs the
Land.

King *Henry* the Third, the Infant, is Crown'd, and in the Ninth
year of his Reign, being the Twentieth of his Age, upon payment
of a Fifteen of all mens movables, *Cap. 37.* in full Parliament,
he gives and grants this *Magna Charta*, whereof my Statute is a
Chapter.

Afterwards pretending Infancy, he declares this Charter *Null*,
which revives the Barons War, and issues streams of English
blood.

Yet here give me leave to note what the French *Comines* gives for
a Maxim, That no Subject ever *drew Sword* against his Prince, but
though his design prevail'd, he himself *suffer'd* in *Life, Estate, or
Conscience*; And of this, gives evidence, That Pardon for which the
Lords Petition this King *Henry* in *Kenelworth*, the same Castle
where they had imprisoned him; *Dist^m de Kenelworth. H. 3.*

Yet the result in the long run was the re-establishment of this
Charter, in the Twenty fifth of his Reign, and in the presence of
his Son the brave King *Edw. 1. Mag. ch. 37.* and with such
direful Ceremonies as were then *Authentick* by way of cursing and
execrations to the Infringers, as may astonish the Reader, if he
peruses *Matthew Paris, An. 1253.* And reflects as well on such
as violate the Kings Prerogative, as Intrenchers upon the Subjects
liberty.

By some as ignorant as censorious, our Laws are scandal'd as in-
troduced by *Conquest*; whereas in truth this Charter is purely decla-
ratory of the old *Saxon* as aforesaid; so concludes *St German.*
Fol. 12.

And in those captious points of *Tenures, Wardships, and Pur-
veyance*, I can demonstrate footsteps thereof before King *William*,
though possibly by him and his Issue improved with the honour of
Kighthood, and Knights service.

But were the quarrel at all a grievance, we have now a Prince, who
derives his Pedigree not only from the *Norman*, but more ancient
and direct, from the *Royal Saxon* Line, as well by *Queen Marga-
ret*, Sister and Heir of *Edgar* in the Scotch Descent, as from *Maud*
her Daughter Queen to King *Henry* the First in the English.

And for those pretended *Norman* innovations of *Tenures, Ward-
ships, and Purveyance*, he has been pleased to unhatch these Roy-

alties from his Crown upon the Petition of the Parliament, which is a Court *de Tesgrand honour & justice de que nul doit imaginer chose dishonurable*, as we are taught, in *Pl.* 388. In whose wisdoms it becomes people to acquiesce, as their own choice and Representatives, or to renounce *all Rule*, but *their own*.

Yet may it with all submission be aver'd, Those Royalties might possibly have been so refin'd to the *Saxon Model*, as would have given an *ornament* and lustre to the Crown, yet no *pressure* to the Subject.

But be this Statute *de novo*, or declaratory, were it at first a Charter only, or an Act, the matter is now without dispute, since the same King, and after him his Son King *Edward*, a warlike Prince, and our *Justinian*, 25. *Ed.* 1. in his fullage and glory enacted it to be allowed as *Common Law*, for so are the words; nay, that it should be read twice a year in all Cathedrals, *ch.* 2. as the place where by the popes interest they were then most obstructed: And his Royal Successors now *Thirty* and *three* times have confirm'd it by Acts of Parliament; Nay, we have an *Act* that declares all *Acts void*, that are against it: But *leges posteriores priores abrogant*.

So that, what at the first erecting might be a *Charter*, is become a *Statute*, and so *St. German* terms it, and so the *Act* of 5. *Ed.* 3. *Cap.* 8. And in pleadings, what more usual, than to lay it *Contra formam Statuti*, in an Action brought upon this Law?

A Statute then it is, and therefore not less proper for a Reading, than that of *Treasons*, 25. *Ed.* 3. which was but declaratory of the old Law.

The old Statutes, says *Ch. Justice Cook*, *Preface to the 8th. Rep.* are the *Text* of the Common Law, the Records and Reports are but *Commentaries* thereupon.

And if so, then this Law, and this Chapter chiefly, which is the *Jewel* in the *Ring*, is the foundation of the whole, the rest but structures built upon it.

This the *base*, those the *descant*.

And now Gentlemen, let us consider what sort of *liberty* is it, that a *liber homo*, a man of Reason can design, which is not secur'd him by this Statute!

1. Desires he to have his person free? *Nullus capiatur vel imprisonetur.*

2. Desires he peace in the possession of his Land? *Nullus disseisitur de libero tenemento.*

3. Would he not have his *Franchises* encroach'd? *Nullus dissesitur de libertatibus.*

4. Favours he the old *Customs* which he has been bred in? *Nullus disseisetur de liberis consuetudinibus.*

5. Desires he to live in the protection of the Law? *Nullus utlagatur.*

6. Delights he in his old acquaintance, and Country: or? *Nullus exulatur.*

7. Would he not be oppress'd by his potent neighbour? *Nullus aliquo modo destruitur.*

8. Would he not be condemned before he be heard, nor chastis'd before he be legally condemned? *Nec super eum ibimus, nec super eum mittimus.*

9. Would he not be judged at will, nor tryed but by his Neighbourhood, and the Law? why none of these, or other grievance can surprize him. *Nisi per iudicium parium vel per legem terræ.*

10. Lastly, Would he have right done him, and that without delay, sine prece, sine precio. *Nulli vendemus, nulli negabimus, aut deferemus iustitiam vel rectum.*

Loe here we have a Law for property in our Goods, for title to our Lands, for liberty to our persons, for safety to our lives; In general, as my Lord Dyer notes, fol. 104. here's a remedy for every wrong that is, and a prevention for every wrong that may be: for no man shall suffer till he be condemned; none condemned, but by a legal trial; and none tryed, but is to be admitted to his just defence.

If a Subject of England be not *liber*, who then is free? How is it, our interest as well as duty to support the Royal Government, which shaken, leaves us free to naught but the lusts of men? How are their contrivances to be abhorr'd, who design, under a specious fallacy, to erect their own greatness and revenge, on the hazard of our lives and souls!

What I have enforc'd in relation to *Kingship*, I suppose is coherent, and not strain'd or impertinent to this occasion, and indeed no more than I (give me leave to say not unreasonably) publisht before the Kings return, which may acquit me of flattery or design. There remains only one scruple, which may stick with some that are prepossession'd, and that is, *An acknowledgement that our Laws are excellent,*
but

but they have been often violated, and are apt to be obstructed in the execution.

For answer, know, that while we are *here*, because *men*, we are subject to *infirmity*; nor is it possible to reap the more *general* fruit of the best establish'd policy, unless by compact we subject our selves to some *possible* inconveniences.

Accidents and the artifices of *men*, are so *various* and *incertain*, that no Government is, was, or ever can be so exact, (no, not that *Utopian* device, which Mr. *Wren* so well asserted) as can secure against all *casual* emergents and mischiefs.

Governments therefore are best weigh'd by *comparisons*; and comparing the royal frame, with that of our *late* Model, which is the *belov'd* of our Statists, 'tis easily demonstrated, that Subjects are much more incident to oppression under *that* than *this*.

In the Royal frame, the House of *Commons* are in a sort the *Tri-bunes* of the Subjects liberty, and it has often interpos'd *humbly*, yet with *success*. Now shall that *House* (we know when it was) become our *Tyrants*? To whom shall we *appeal* in case of grievance? 'Tis a change but fatal to the *sheep*, when the *Dog* that guards them becomes the *Wolf*; when such (as in *Kingship*) are entrusted only to *consent* that the *Purse* be open'd, shall (as then) *put in* their hands to dispose and pay, and *themselves* only to account unto *themselves*.

'Tis a wound in the very *heart* of Liberty, and the less curable, in that it is driven by a *knott* of hands, a *quarry* of *Sovereigns* supporting one another like *stones* in an *Arch*; every of whose dependants acts the Prince, and fortifies a *successive* violation.

Whereas a Prince is but *one*, circumscrib'd by a *known* Law, and *apt* instruments are not lightly rais'd, the terrour of a *House of Commons* being too exemplary; however though *Rex* the *King* dies not, and his *Sovereignty* cannot be divided from *himself*, yet his *person* is mortal, and his posterity not so active, or more indulgent, makes amends.

Upon this account it is, that ever since the Conquest at the long run, no innovation has ever happened, but prerogative has been *prun'd* (and perhaps too hastily) in the branch thereof, which let in the opportunity. Search our *Statutes*, and so you will find it.

I might instance the excellency of this Government, from the *solemn* and *profound* order that we have in framing new, in revoking or altering *old* Laws, which like Gold, must be *seven* times refin'd before they are in force.

In that other fiction, how hastily upon every *new light* did they make Laws, even as boys do Squibs and Crackers, and as lasting; without a ballance, or other body, maturely to debate and ripen!

Which Laws, being *absolute* and without *control*, may be presum'd to *bias* towards their private interests, though not by an exemption of the *Purse*, for that were too scandalous, yet by the invention or erecting of a *new Office*, or employment, which sufficiently rep'ns the payment.

I might also instance in their severe and *arbitrary* imprisonments, and those without *hearing* or *appeal*; and often inflicted at the will of their inferiour dependants in the Country, which (though I have too often felt) yet as to what was so enforc'd by those persons that were own'd as the *Supreme Authority*, (admitting it legal) I cannot rationally condemn: for no *Kingdom* or *State* can stand long unshaken, unlesse there be in the *supreme Magistrate* and *Council*, a radical and inherent right, by power not altogether *regular*, to obviate plottings and surprize.

Otherwise, while it stays the formalities of *Law*, the conspiracy may grow lawlesse, too *strong* to be prevented by it: And though some that are *innocent*, may suffer upon an undue *suspicion*, yet *melius percat unus quam unitas*, better is it that *one* innocently suffer a *private* and temporary mischief, than that we run the hazard of a *publick* inconvenience.

With this, that it subjects the disquisition to the *forms* of *Law*, when it may be *safe* and *open*, and with this, that it parts not this authority from the *Sovereign* and his *Council*; and so see we it *now* executed, and not *unprosperously* warranted by the *Law of Nature*, self-preservation, to which *Lex terra* cannot be contrary.

Whereas in those other days every dependant acted his *passion*, with this *power*, and the trial we had was by a *new red Court*, where the *cull'd* persons were in a sort, *Parties*, *Judge*, and *Juries*, but no *challenge*, no *pares*, and I may swear they had *none*.

Iustitia firmat solium; which King *James* well understood, when he publish'd, That for a King of *England* to discountenance the *Common Law*, was to desert his *Crown*; all persons are presum'd to endeavour that which is for their *advantage*; Certainly then the Prince is ill advis'd, who ruins the *Law*, which is his chief *support*; If for no other cause, yet for this, we have no cause to *fear*.

However, better were it to *time out* a temporary evil, as we do showers in harvest, than engage in that *publick* hazard, which attends an *undue* remedy.

The

The Arms of Subjects (even as best for them) should be *preces & lachryma*, and those at the end will prevail, when it is grown to be the *Genius* of the people; But, *Si non fecerit, sufficit ei ad pacem*, says *Bracton*, *quod Dominum habet morem*. He that has faith, will stay Gods *time* for *payment*; he that has none, may take his own *time*, and possibly be *paid* himself.

Every word in this Statute has its weight, and I might aptly dissect it into as many parts as words; For method I shall propose ten particulars, and each of them an adequate subject for a reading.

1. Who is the *Liber homo* intended.
2. What shall be an Imprisonment.
3. What is a Disseisin of Franktenement.
4. What is a Disseisin of Liberties.
5. What is a Disseisin of free Customs.
6. What is an Utlagury, exile or destruction.
7. What shall be said to be a passing or sitting upon a man.
8. What shall be call'd a legal judgement of Peers.
9. What it is that is call'd the Law of the Land.
10. What shall be said to be a selling, denying, or deferring of Justice.

Within this
Statute.

Upon these divisions I shall proceed, as far as the time allotted me will permit; however, I shall contrive to give you somewhat of my conceptions upon every part; and herein I shall beg your patience and attention, and possibly may make you some *amends*, by being *brief and plain*.

ERRATA.

Pag. 3 line 17. read *in*. *Ibid* line 24. for *Hazard*, read *Hazards*. Pag. 4 line 21. for *o b*, read *o b e*. *Ibid* line 25. for *Lords Spirituals*, read *Lords Temporal*, and read *a House of Lords*, and *a House of*.

FINIS.

ADVERTISEMENT.

More of this Subject may be read, in a Discourse publish'd by the Reader, before the Kings Return, and Printed by us,

G. B. and T. C.

